

DATE: July 11, 2003
TO: Governor Jim Doyle
FROM: Secretary Scott Hassett
SUBJECT: 8-Hour Ozone Attainment and Nonattainment Areas

The Department of Natural Resources recommends that you send the attached letter and technical support document to the Administrator of U.S. EPA by July 15, 2003 indicating support for the following area designations based on the air quality monitoring record for ozone during 2000, 2001 and 2002. This recommendation is subject to the understanding that EPA's preliminary and final designation decisions in December 2003 and April 2004, will be based on data from the 2001, 2002 and 2003 ozone monitoring seasons.

Areas recommended for designation as Nonattainment for the 8-hour ozone standard

In consideration of the list of counties with monitors that violated the 8-hour ozone ambient air quality standard for 2000-2002 and the 1999 boundaries of the primary and consolidated metropolitan (C/MSA) areas in Wisconsin, the Department recommends the following three areas in Wisconsin for a nonattainment status:

Southeast Wisconsin Nonattainment Area

Milwaukee/Racine Consolidated Metropolitan Statistical Area (C/MSA):

- Milwaukee Co.
- Ozaukee Co.
- Racine Co.
- Washington Co.
- Waukesha Co.

Kenosha Co. (the Wisconsin portion of the Chicago-Gary-Kenosha C/MSA)

The Department further strongly recommends that EPA continue Wisconsin's Ozone Implementation Plan (Ozone SIP) development responsibility for Kenosha County by having the county continue to be part of the broader nonattainment area that includes the rest of the existing 1-hour ozone nonattainment area in the southeastern part of the state.

Sheboygan County, Wisconsin Nonattainment Area

Sheboygan Co.

Northeast Wisconsin Nonattainment Area

- Door Co.
- Kewaunee Co.
- Manitowoc Co.

Areas recommended for designation as Attainment for the 8-hour Ozone Standard

All other Wisconsin counties

Jefferson County

Region 5 EPA and Wisconsin Air Program staff concur that Jefferson County should be designated based on a clear 2001-2003 monitor data record and that a recommendation for the county based on 2000-2002 data is not meaningful at this time. The critical monitor was closed for road construction at the site during much of the 2000 season. This precluded the monitor instrument's operation for two months. As a consequence the official EPA site record protocol indicates violation based on the record of a much earlier period - 1997-1999. That period is too removed to reflect an accurate picture of the county's current ozone air quality status. DNR is not making a recommendation regarding attainment/nonattainment for Jefferson County.

Potential change to recommended areas later in 2003

Because EPA has committed to use the most recent quality-assured data in finalizing designations, the 2003 monitor data has a strong potential to alter the apparent attainment status of several counties on the western boundary of the recommended nonattainment areas. The Department is currently in consultation with stakeholders and local interests regarding the appropriate boundaries for area definition(s) associated with nonattainment status, in particular where the area may be expanded and where new areas need to be defined. The Department and the Governor may need to reassess their working recommendation of attainment and nonattainment area definitions in light of the impact of the final EPA rule regarding Implementation of the 8-hour standard. The Department has been urging EPA to promulgate the regulation as expeditiously as practicable so the requisite four-month period is available to Wisconsin to discuss with EPA the proposed area designations prior to their final promulgation in April 2004.

Discussion with the south central and northeastern counties violating or nearing violation of the standard based on 2003 data could lead to a different recommendation later this year for the area boundaries in light of the formal EPA evaluation criteria. Therefore, the recommendation to define the three county northeast area is tentative and subject to modification if EPA adopts a classification option in the implementation rules allowing a Rural Transport-Nonattainment area and that option is considered for application to Door County. Similarly, if Jefferson, Walworth, Rock and/or Dane Counties violate the standard, at the close of the 2003 ozone season, the Department would potentially recommend a "new" south central Wisconsin nonattainment area and would have to recommend the scope of that area.

Basis for the Attainment/Nonattainment recommendations and the area definitions

The counties recommended now for designation as nonattainment either contain monitors showing a violation of the 8-hour ozone standard based on EPA's 8-hour design value methodology, or, they are part of the existing nonattainment area for the 1-hour ozone standard and will remain subject to the emission controls in the 1-hour ozone attainment SIP which projects attainment of the 1-hour standard by 2007. All counties recommended for 8-hour nonattainment status demonstrate direct contribution to elevated ozone concentrations at monitors that record 8-hour ozone violations.

Technical evaluations conducted in accordance with EPA's guidance for developing state area designation recommendations and for the definition of nonattainment area boundaries indicates that additional counties in eastern and southern Wisconsin contribute to some extent to the elevated ozone concentrations in some of the counties recommended for nonattainment status during some elevated ozone episodes. However, the current record (2000-2002) indicates the counties in question are locally

monitoring attainment and are beyond the defined scope of the 1999 metropolitan area boundaries. In addition, local stakeholder input to the area recommendations has yet to indicate strong support for a broadened area of nonattainment designation in Wisconsin based solely on considerations of area contribution to downwind violations.

Public sector officials in Dane, Rock and Brown Counties have recently expressed a strong interest in making rapid voluntary emission reduction commitments to improve the air quality in their areas. The Department is working with these counties to facilitate their identification and initiation of formal mechanisms to support rapid adoption of local measures to achieve significant voluntary emission reductions and as a consequence to significantly reduce their burden on the air quality in the violating areas. These strong county commitments alleviate the immediate need for the added local burden of an expanded area with nonattainment status while ensuring a quantifiable air quality improvement downwind.

Finally, I am attaching letters from DOT Secretary Busalacchi confirming DOT's agreement with the approach I am recommending in this memo. My staff and I appreciate the input and collaboration from the Department of Transportation on this important matter.



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

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Scott Hassett, Secretary

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July 11, 2003 (Due - July 15)

Dear EPA Administrator:

Wisconsin is pleased that U.S. EPA is moving forward to implement the 8-hour ozone national ambient air quality standard (8-Hr Ozone NAAQS). The standard will improve the respiratory health of many thousands of Wisconsin residents. Based on the air quality monitoring record for ozone during 2000, 2001 and 2002 and my responsibilities under the Clean Air Act, I am making recommendations regarding the attainment and nonattainment status of Wisconsin areas with the 8-Hr Ozone NAAQS.

This list of areas is subject to the understanding that EPA's preliminary and final designation decisions in December 2003 and April 2004, will be based on complete data from the 2001, 2002 and 2003 ozone monitoring seasons. Wisconsin acknowledges that changes to the apparent violation status of Wisconsin counties that occur as a result of the 2003 ozone season data could necessitate an updated recommendation on our part prior to EPA's December 2003 proposal.

Areas recommended for designation as Nonattainment for the 8-hour ozone standard

In consideration of the list of counties with monitors that violated the 8-hour ozone ambient air quality standard for 2000-2002 and considering the 1999 boundaries of the primary and consolidated metropolitan (C/MSA) areas in the state, I recommend the following three areas and the included counties in Wisconsin for a nonattainment status for 8-Hr Ozone.

Southeast Wisconsin Nonattainment Area

Milwaukee/Racine Consolidated Metropolitan Statistical Area (C/MSA):

- Milwaukee Co.
- Ozaukee Co.
- Racine Co.
- Washington Co.
- Waukesha Co.

Kenosha Co. (the Wisconsin portion of the Chicago-Gary-Kenosha C/MSA)

Sheboygan County, Wisconsin Nonattainment Area

Sheboygan Co.

Northeast Wisconsin Nonattainment Area

Door Co.
Kewaunee Co.
Manitowoc Co.

Wisconsin plans to continue its Ozone Implementation Plan (Ozone SIP) development responsibility for Kenosha County and I request that the county continue to be identified as part of the broader nonattainment area that includes the rest of the existing 1-hour ozone nonattainment area in the southeastern part of the state, regardless of its status as part of the Chicago-Gary-Kenosha C/MSA. I believe that the State of Illinois concurs with this request.

Areas recommended for designation as Attainment for the 8-hour Ozone Standard

All other Wisconsin counties.

Jefferson County

I am making no recommendation regarding attainment or nonattainment for Jefferson County until the close of this ozone season due to the lack of a clear basis for either a violating or attainment status based on the 2000-2002 data. I understand that Region 5 EPA staff agrees with Wisconsin that the county would be best designated based on a complete 2001-2003 record.

All the other counties beyond those noted above demonstrate monitored attainment with the standard or have been demonstrated in previous evaluations to be removed from the primary ozone problem area in the southern and eastern portions of the state.

Potential change to recommended areas later in 2003

Since EPA has committed to use the most recent quality-assured data in finalizing designations, the 2003 ozone season has a potential to alter the monitored attainment status of several counties on the western boundaries of the recommended nonattainment areas. In that case I will direct the DNR to work with EPA to refine a set of recommended areas. Wisconsin may also need to reassess its working recommendation of attainment and nonattainment area definition in light of the impact of the final EPA rule regarding implementation of the 8-hour standard. I strongly urge EPA to promulgate this rule as expeditiously as practicable so we can pursue timely discussion regarding your proposed area designations and resultant classifications (if any) prior to their final promulgation in April 2004. I anticipate those discussions could involve area boundaries and the potential for a downwind rural transport status for one or more counties. I also want to insure adequate public input from local government, business and environmental interests.

Basis for the Attainment/Nonattainment recommendations and the area definitions

The counties recommended now for designation as nonattainment either contain monitors showing a violation of the 8-hour ozone standard based on EPA's 8-hour design value methodology, or, they are part of the existing nonattainment area for the 1-hour ozone standard and will remain subject to the emission controls in the 1-hour ozone attainment SIP which projects attainment of the 1-hour standard by 2007. All counties recommended for 8-hour nonattainment status demonstrate direct contribution to elevated ozone concentrations at monitors that record 8-hour ozone violations. Therefore, Wisconsin is not recommending changes to the 1999 area boundary defaults regarding the scope of the multiple county metropolitan nonattainment area in southeastern Wisconsin. That area definition remains consistent with the area described as nonattainment for the existing 1-Hr Ozone NAAQS.

Wisconsin has conducted technical evaluations regarding area boundaries in accordance with EPA's active guidance. These indicate that additional counties in eastern and southern Wisconsin contribute to some extent to the elevated ozone concentrations in some of the counties recommended for nonattainment status during particular elevated ozone episodes. However, the current record (2000-2002) indicates the

counties in question are locally monitoring attainment and those identified as potentially contributing are beyond the defined scope of the 1999 metropolitan area boundaries. As a consequence I am not recommending an expansion of the current nonattainment area definitions.

Finally, I am pleased to note that public sector officials and private sector representatives in some of Wisconsin's larger population counties west and south of the defined nonattainment area(s) have recently expressed a strong interest in making rapid voluntary emission reduction commitments to improve local air quality and to address their impact on violating areas downwind. Wisconsin is working to facilitate the identification of appropriate local measures and to initiate a formal mechanism to support rapid adoption of these measures to achieve significant voluntary emission reductions. We are confident such an effort will further reduce the burden on the air quality in the violating areas beyond that expected from EPA-promised national and regional control programs. These strong commitments alleviate the need to expand to additional counties the added burden of nonattainment status where not clearly required by federal law while ensuring a rapid and quantifiable air quality improvement downwind.

The recommended nonattainment areas are presumed to be of sufficient geographic scope to enable development of a viable emission control plan sufficient to support an attainment demonstration for the 8-hour standard in conformance with the requirements of the Clean Air Act.

Sincerely,

Jim Doyle
Governor

cc: Scott Hassett, DNR
Jay Hochmuth, DNR
Lloyd Eagan, DNR

Attachment: Recommended Area Boundary Evaluation based on EPA Criteria